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5 4000 Cover St., Suite 100  
Long Beach, CA 90808  
(562) 499-2121 tel.  
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6 Attorneys for Plaintiff,  
7 WILLIAM STEWART

8  
9 UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

11 WILLIAM STEWART, an individual

12 Plaintiff,

13 vs.

14 THE BOEING COMPANY, a Delaware  
15 Corporation, and DOES 1-50, inclusive,

16  
17 Defendants.

18 CASE NO. CIV12-5621 RS WL (AGRx)

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**AMENDED NOTICE OF UNOPPOSED  
MOTION AND UNOPPOSED MOTION TO  
WITHDRAW AS COUNSEL OF RECORD  
FOR PLAINTIFF WILLIAM STEWART;  
MEMORANDUM OF POINTS AND  
AUTHORITIES; AND DECLARATION OF  
ALLEN B. FELAHY IN SUPPORT THEREOF**

Date: April 23, 2013

Time: 10:00 a.m.

Ctrm: 21

Judge: The Hon. Ronald S.W. Lew, Senior  
Complaint Removed: June 28, 2011

1 TO THE HONORABLE COURT, ALL PARTIES AND THEIR ATTORNEYS OF  
2 RECORD:

3 PLEASE TAKE NOTICE that, on April 23, 2013 at 10:00 a.m., or as soon thereafter as  
4 the matter may be heard, in Courtroom 21 of the United States District Court for the Central  
5 District of California, located at 312 N. Spring Street, Los Angeles, California 90012, the law firm  
6 of Felahy Law Group, APC ("FLG"), counsel of record for Plaintiff William Stewart ("Plaintiff"),  
7 will and hereby does move this court for order permitting FLG to withdraw from representation of  
8 Plaintiffs in the above-referenced action.

9 This Motion is based on the grounds that there has been a breakdown in communication  
10 between FLG and Plaintiff such that continued representation is no longer possible.

11 This Motion is made following the conference of counsel pursuant to L.R. 7-3, which took  
12 place on March 12, 2013. Defendant does not oppose this Motion.

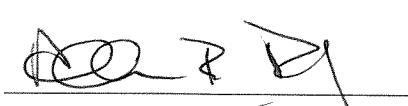
13 Further, pursuant to L.R. 83-2.9.2.1, on March 19, 2013, FLG gave written notice to  
14 Plaintiff of this application for leave to withdraw.

15 This Motion is based upon this Notice, the attached Memorandum of Points and  
16 Authorities, the accompanying Declaration of Allen B. Felahy, filed concurrently herewith, the  
17 pleadings and other papers on file in this action, and all matters of which the Court may take  
18 judicial notice.

20 Respectfully Submitted,

21 Dated: March 19, 2013

22 FELAHY LAW GROUP

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24 Allen B. Felahy  
25 Attorney for Plaintiff

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**MEMORANDUM OF POINTS AND AUTHORITIES**

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**I. INTRODUCTION**

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5 The Local Rules of the United States District Court for the Central District of California  
 6 state that an attorney may not withdraw as counsel except by leave of court. L.R. 83-2.9.2.1. As  
 7 such, the law firm of Felahy Law Group, APC (“FLG”), counsel of record for Plaintiff William  
 8 Stewart (“Plaintiff”), seeks an order from this Court permitting FLG to withdraw as counsel of  
 record for Plaintiff. Defendant does not oppose this Motion.

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**II. GOOD CAUSE EXISTS FOR THIS MOTION TO WITHDRAW**

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11 “An attorney may not withdraw as counsel except by leave of court, and the decision to  
 12 grant or deny counsel’s motion to withdraw is committed to the discretion of the trial court.” See  
 13 Beard v. Shuttermart of Cal., Inc., No. 07CV594WQH (NLS), 2008 WL 410694, \*2 (S.D. Cal. Feb.  
 14 13, 2008). Generally, substitution or relief of an attorney may not be granted when it will delay  
 15 prosecution of the case, unless good cause exists or the interests of justice require it. See Civil L.R.  
 16 83-2.9.2.4.

17 When determining whether to grant a motion to withdraw as counsel, courts may consider  
 18 (1) the reasons why withdrawal is sought; (2) the prejudice that withdrawal will cause the other  
 19 parties; (3) the harm withdrawal might cause to the administration of justice; and (4) the degree to  
 20 which withdrawal will delay the resolution of the case. See Matthew Liang v. Cal-Bay  
 21 International, Inc., et al., No. 06CV1082-WMC, 2007 WL 3144099, \*1 (S.D. Cal. Oct. 24, 2007).

22 Courts have recognized that a breakdown in communication between a client and attorney  
 23 may be a sufficient basis on which counsel may withdraw. Hershey v. Berkeley, No.  
 24 07CV594WQH (NLS), 2008 WL 4723610, \*2 (C.D. Cal. Oct. 24, 2008).

25 Here, as set forth in the accompanying declaration of Allen B. Felahy, without  
 26 compromising the attorney-client relationship, good cause exists to relieve FLG as counsel of  
 27 record. Specifically, there has been an irreparable breakdown in communication between Plaintiff

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1 and FLG, such that effective representation is no longer possible. If the Court requires further detail  
 2 in this regard, an *in camera* hearing is respectfully requested. (See Felahy Dec. at ¶ 3.)

3 **III. PLAINTIFF WILL SUFFER *DE MINIMUS* PREJUDICE FROM GRANTING THIS**  
 4 **MOTION TO WITHDRAW**

5 FLG's withdrawal will cause little prejudice to Plaintiff or Defendants. As of the filing of  
 6 this Motion, (1) The next hearing date is April 2, 2013; (2) the Discovery Cut-Off Date is August  
 7 13, 2013; (3) the Motion Cut-Off Date is August 27, 2013; and (4) the Trial is set to begin on  
 8 November 12, 2013. As such, any delay, harm to the administration of justice or prejudice to the  
 9 parties is *de minimis*. Further, enormous prejudice will result to FLG if it is not permitted to  
 10 withdraw at this time. (See Felahy Dec. at ¶ 4.)

11 **IV. FLG HAS GIVEN PLAINTIFF AND DEFENDANTS NOTICE OF ITS INTENT TO**  
 12 **WITHDRAW**

13 Pursuant to Local Rule 83-2.9.2.1, an attorney moving to withdraw from representation may  
 14 do so upon written notice given reasonable in advance to the client and all other parties to the  
 15 action. On March 12, 2013, Allen B. Felahy of FLG sent to Plaintiff substitution of attorney  
 16 forms. On March 19, 2013, Mr. Felahy sent written correspondence to Plaintiff notifying him that  
 17 FLG would be filing this motion, and that it would be scheduled to be heard on April 23, 2013.  
 18 (See Felahy Dec. at ¶ 5; Ex. 1.)

19 Further, on March 7, 2013, FLG notified Defendant of its intention to file this Motion.  
 20 Defendant was served with written notice of this Motion on March 19, 2013. (See Felahy Dec. at ¶  
 21 6; Ex. 2.) Defendant has communicated that it does not oppose this Motion.

22 Therefore, FLG has provided proper notice to its client and to all other parties of its  
 23 intention to withdraw as counsel.

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## V. CONCLUSION

Based on the foregoing, neither Plaintiff nor Defendant will be prejudiced by the withdrawal. Additionally, FLG has followed the procedures required by L.R. 83-2.9.2.1 to withdraw as counsel. As such, FLG respectfully requests that Court grant this motion to withdraw as counsel of record for Plaintiff.

Dated: March 19, 2013

Respectfully submitted,

FELAHY LAW GROUP  
ALLEN B. FELAHY

By:

Allen B. Felafy  
Attorneys for Plaintiff

**DECLARATION OF ALLEN B. FELAHY**

I, Allen B. Felahy, declare:

1. I am the Managing Partner at the Felahy Law Group, APC (“FLG”) and attorney of record for Plaintiff William Stewart (“Plaintiff”) in the above matter. I have personal knowledge of the facts stated herein and, if called as a witness, I could and would competently testify thereto.

2. I submit this declaration in support of FLG's Motion to Withdraw as Counsel of Record for Plaintiff (the "Motion").

3. Without compromising the attorney-client relationship, sufficient grounds exist to relieve FLG as counsel of record in the instant matter. Specifically, there has been an irreparable breakdown in communication between Plaintiff and FLG, such that effective representation is no longer possible. If the Court requires further detail in this regard, an *in camera* hearing is respectfully requested.

4. FLG's withdrawal will cause little prejudice to Plaintiff or Defendant. As of the filing of this Motion, (1) The next hearing date is April 2, 2013; (2) the Discovery Cut-Off Date is August 13, 2013; (3) the Motion Cut-Off Date is August 27, 2013; and (4) the Trial is set to begin on November 12, 2013. As such, any delay, harm to the administration of justice or prejudice to the parties is *de minimis*. Further, enormous prejudice will result to FLG if it is not permitted to withdraw at this time.

5. On March 12, 2013, I sent to Plaintiff Substitution of Attorney forms. Pursuant to L.R. 83-2.9.2.1 of the Local Rules of this Court, on March 19, 2013, I sent written correspondence to Plaintiff, notifying him that FLG would be filing this Motion, , and that it would be scheduled to be heard on April 23, 2013. A true and correct copy of my correspondence is attached hereto.

### Exhibit 1.

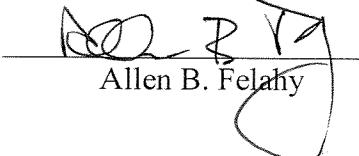
6. Pursuant to L.R. 7-3 of the Local Rules of this Court, on March 7, 2013, I contacted Sean O'Brien of Payne & Fears, LLP, counsel for The Boeing Company ("Defendant") in an attempt to meet and confer regarding the subject matter of this Motion. I advised Mr. O'Brien that FJG would

1 be filing this Motion and requested that he advise me whether Defendant would object and/or  
2 oppose the Motion. A true and correct copy of the correspondence to Sean O'Brien is attached  
3 hereto as **Exhibit 2**. On March 19, 2013, I served Defendant with written notice of the Motion.

4 7. Although attempts were made, FLG was unable to procure a substitution of attorney from  
5 Plaintiff prior to bringing the instant motion.

6 I declare under penalty of perjury that the foregoing is true and correct.  
7 Executed on March 19, 2013 in Long Beach, California.

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Allen B. Felahy

- EXHIBIT 1 -

4000 COVER STREET  
SUITE 100  
LONG BEACH, CA 90808



(562) 499-2121  
(562) 499-2124 FAX  
WWW.FELAHYLAW.COM

March 19, 2013

Via U.S. Mail

William Stewart  
811 Bangor Ave.  
Hesperia, CA 92345

**Re: William Stewart v. The Boeing Company**  
**[Case No: CIV12-5621 RS WL (AGRx)]**

Dear Mr. Stewart:

This letter shall serve as formal notice that Felahy Law Group intends to file a motion to withdraw as counsel of record in the above-entitled matter. We have provided the reasons to you in our prior conversations with you. We are writing this letter in accordance with Court rules which require that we provide you with written notice of an application for leave to withdraw as counsel. See L.R. 83-2.9.2.1.

In conjunction with the foregoing, enclosed please find the Notice of Motion and Motion to Withdraw as Counsel of Record for Plaintiff and Proposed Order thereon. Please be advised that the hearing on the Motion has been set for **April 23, 2013 at 10:00 a.m.** in **Courtroom 21** of the United States District Court for the Central District of California located at 312 N. Spring Street, Los Angeles, CA 90012.

If, prior to that time, you both sign and return to us the Request for Approval of Substitution of Attorney forms that were provided to you on March 12, 2013, we will file the forms with the Court and take the hearing off-calendar. Otherwise, the hearing will proceed as scheduled.

Very truly yours,

Allen B. Felahy

- EXHIBIT 2 -

**From:** Keith Custis  
**Sent:** Thursday, March 07, 2013 11:50 AM  
**To:** O'Brien, Sean A.  
**Cc:** Allen Felahy; Oscar Ramirez; Jennifer Yanni  
**Subject:** Stewart v. Boeing

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Sean:

We received your email dated February 28, 2013, containing Defendant's portion of the Joint Stipulation for the Motion to Compel. We're also aware that you requested that Mr. Stewart provide his portion of the Joint Stipulation by today, March 7, 2013.

Our firm is currently in the process of being relieved as Mr. Stewart's counsel of record. Accordingly, we request that Defendant grant Mr. Stewart a two-week extension of the requirement to provide his portion of the Joint Stipulation so that successor counsel may be obtained. The brief extension will allow Mr. Stewart's new counsel the opportunity to review his file respond accordingly.

We understand that your client wishes to move forward with the matter. However, we respectfully request that Defendant grant Mr. Stewart's requested extension. Under the circumstances, proceeding to file the Joint Stipulation without Mr. Stewart's portion and without successor counsel's involvement will unduly prejudice Mr. Stewart.

Thank you for your cooperation on this matter.

Regards,

Keith

Keith A Custis  
FELAHY LAW GROUP  
4000 Cover Street, Suite 100  
Long Beach, California 90808  
Phone: (562) 499-2121  
Fax: (562) 499-2124

## PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 4000 Cover Street, Suite 100 Long Beach, California 90808.

On March 19, 2013 I served the following documents:

1. AMENDED NOTICE OF UNOPPOSED MOTION AND UNOPPOSED MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR PLAINTIFF WILLIAM STEWART; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION OF ALLEN B. FELAHY IN SUPPORT THEREOF
2. [PROPOSED ORDER] GRANTING ALLEN B. FELAHY'S MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR PLAINTIFF WILLIAM STEWART

upon the interested parties in this action by placing [ ] the original [ X ] true copies thereof, enclosed in a sealed envelope addressed as follows:

**Daniel F. Fears, SBN 110573  
Sean A. O'Brien, SBN 133154  
PAYNE & FEARS LLP  
4 Park Plaza, Suite 1100  
Irvine, California 926514**

[ X ] **(BY MAIL )** I am readily familiar with Felahy Law Group's practice for collection and processing of correspondence for mailing within the United States Postal Service; such envelope will be deposited with the United States Postal Service on the date shown below in the ordinary course of business at the business address shown above; and such envelope was placed for collection and mailing on the date shown below according to Felahy Law Group's ordinary business practices.

**(FEDERAL COURT)** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 19, 2013, at Long Beach, California.

Veronica Quijano